

15 September 1947

OGC Has Reviewed

MEMORANDUM TO FEW

Subject: [REDACTED]

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1. We forward herewith Mr. [REDACTED] 201 file which we have reviewed in order to determine the proper method for settling problems raised therein. It appears clear that the Government intended to make adequate compensation for Mr. [REDACTED] services at the time he was engaged. The proper method to achieve this would have been to recall him to active service until the mission was completed. He would thus have been paid by the Army full pay and allowances of a major with over three years service, plus the proper per diem and transportation charges. This apparently was discussed, and the Government representative decided it could not be done for security reasons. The alternative would have been to employ Mr. [REDACTED] on a part time or consultant basis, which is permissible during the period of terminal leave. Apparently, there was no time to work out the details, but the Government agent appears to have assured Mr. [REDACTED] that the question of compensation would be taken care of and Mr. [REDACTED] accordingly performed his services as directed. If these circumstances are accurately stated, the Government is obligated to Mr. [REDACTED] in an undetermined amount. We suggest that settlement could reasonably be made on the following basis:

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(1) [REDACTED] as the Government agent who originally negotiated with [REDACTED] should certify to the decision that security made recall to active duty impracticable, and that it was his intention, in discussing the original arrangements with Mr. [REDACTED] to commit the Government to reasonable compensation.

(2) On the basis of Mr. [REDACTED]'s certification, your branch should prepare a recommendation to the ADSO on the following basis. Since recall to active duty was impracticable, it would have been normal, in this type of case, to employ Mr. [REDACTED] as a consultant to be paid a daily fee while working for the Government, plus proper travel expenses and allowances. A consultant's fee may be administratively determined within the maximum established by law. A reasonable ground for setting the fee in this case would be to use the equivalent of daily pay and allowances of a major with over three years service. Our figuring indicates that this would be \$6.63 pay, 70¢ subsistence, and \$3.00 for quarters, a total of \$13.33 per day. Mr. [REDACTED] appears to have performed duty as a consultant from May 4 through May 8, 5 days; from May 14 through May 18, 5 days;

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and from June 2 through June 4, 3 days, a total of 13 days. (From May 9 through May 13, he was automatically recalled to active duty by reason of his hospitalization.) On each of the 13 days Mr. [REDACTED] appears to have been in a travel status, at a per diem set at \$6.00. This would bring the daily return of compensation to \$19.33 or \$251.29 for 13 days. In addition, it appears from the record, that Mr. [REDACTED] spent approximately \$115 for railway fare. He has been paid to date \$108 and was advanced \$250, of which he appears to have returned the sum of \$60.00. Consequently, he seems to be entitled to a total of \$251.29 compensation, plus approximately \$115 for traveling expenses or a total of \$366.29 against the net amount of \$298 of Government money in his possession. This would result in a debt to the individual of approximately \$68.29.

2. We recommend that these figures be checked by Special Funds, particularly, the \$115 travel item, and the \$60.00 refund. If the ADSO wishes to approve payment on this basis, we believe there is no legal objection in view of the security aspects and the original commitments made the individual. Pay as a consultant will not be precisely equivalent to active service as the latter would accrue leave to extend Mr. [REDACTED] terminal leave, but we believe the results are close enough to be considered an equitable settlement.

3. If this recommendation is approved, it will obviously invalidate the vouchers for previous payment, such as the per diem voucher, dated 4 June, for \$108. In any case this voucher would have to be amended to deduct the time Mr. [REDACTED] spent in the hospital on active service. We suggest, if possible, that previous vouchers and accountings be cancelled, and the finance record cleared up on the above basis, if properly approved.

LAWRENCE R. HOUSTON
General Counsel

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